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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, TUAN N

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,557

Applicant(s)

Van Peperzeel et al.

Examiner

Tuan Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 8/6/01

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 - 25 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 - 25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) Other: _____

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DETAILED ACTION

1. The abstract of the disclosure is objected to because the inclusion of legal phraseology such as "comprising" on line 1. Correction is required. See MPEP § 608.01(b).
2. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 is vague and indefinite because the preamble recites "method for sorting...."; however, there are no steps reciting such method.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-8, 10-19, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al..

Fuchs et al. disclose an apparatus and a method for sorting valuable substances comprising an intake station 10 and 11; an outlet station 8 or 9 and a pre-sorting station 17 disposing between the intake and outlet stations. The pre-sorting station connects to a first re-sorting station 45 and 45', and a second re-sorting station 9. The first re-sorting station is arranged for manual examination and removal of undesired substances. The pre-sorting and first re-sorting stations comprise conveyor belts in which the belt of the pre-sorting station has an inclined slope from a lower end to an upper end so that flat items can be discharged at the upper end and three-dimensional items such as cylindrical-shaped items can be discharged at the lower end (column 5, lines 48-59). However, Fuchs et al. do not disclose the substances to be sorted are used batteries; and the second re-sorting station does not have a further manual examination.

It would have been obvious to one of ordinary skill in the art to modify the substances of Fuchs et al. to be used batteries since batteries and cylindrical-shaped items have similar shape as well known in the art; therefore, they can be interchangeable. It would have been obvious to one of ordinary skill in the art to modify the second re-sorting station of Fuchs et al. to have a further manual examination as similar to the manual examination in the first re-sorting station so as to further sort the substances after the pre-sorting station.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. as applied to claim 1 above, and further in view of Roman.

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Fuchs et al. do not disclose a re-screening separator.

However, Roman discloses an apparatus and a method for sorting articles comprising a pre-sorting station 80; a first re-sorting station 86; a second re-sorting station 100; and a re-screening separator 110 disposed between the pre-sorting station and the first re-sorting station.

It would have been obvious to one of ordinary skill in the art to modify the apparatus and method of Fuchs et al. to have further a re-screening separator disposed between the pre-sorting and the first re-sorting station as taught by Roman so as to further sort the articles.

6. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. as applied to claim 18 above, and further in view of SU'387.

The intake station of Fuchs et al. does not have a Jacob's ladder.

However, SU'387 discloses an apparatus and a method for sorting articles comprising an intake station 2-5 and a pre-sorting station 16. The intake station has a so-called Jacob's ladder 2 and 5 having partitions 5.

It would have been obvious to one of ordinary skill in the art to modify the intake station of Fuchs et al. to have a so-called Jacob's ladder as taught by SU'387 to convey articles upwardly and to prevent the articles from slipping down due to the partitions.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Packman and German'029 are cited to show other pertinent art.

8. Any inquiry concerning this communication should be directed to Examiner Tuan Nguyen at telephone number 703-308-3664.

Tuan Nguyen

THUAN NGUYEN
EXAMINER

3/7/03